(1)

Supreme Court, U.S.
FILED

Docket No. 001041 NOV 17 2000

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

John Panos

V.

The People of The State of New York

Petition for Writ of Certiorari
to appeal from the New York State
Court of Appeals

John Panos
518-494-4754
P.O. Box 82
Chestertown, New York 12817

28 pp

Question:

If a prosecutor has reason to believe that a charge of misdemeanor is false; should the prosecutor be able to reduce the charge to violation while maintaining the same facts, for the sole purpose of denying the defendant the right to a jury trial?

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TABLE OF CITED AUTHORITIES

District Of Columbia v. Colts 282 U.S. 63

Landry v. Hoepener 818 F.2d 1169, 840 f.2d 1201

CITATIONS OF THE OPINIONS AND ORDERS ENTERED IN THIS CASE

Citations of opinions or orders are unavailable due to not having been published.

JURISDICTION

The date the judgment sought to be reviewed was entered May 10, 2000. Appellant was then denied leave to appeal to the New York State Court Of Appeals August 21, 2000.

The statutory Provision believed to confer on this court jurisdiction: 28 USC 1257.

CONSTITUTIONAL PROVISIONS INVOLVED IN THIS CASE

Bill Of Rights Amendment Number 6:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed.

Bill Of Rights Amendment Number 14:

No state shall make or enforce any law which shall abridge the privileges of immunities of citizens of the united states. nor shall any state deny any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INSTANCES OF FEDERAL QUESTION DURING PROCEEDING

The first instance when the Federal Question was raised; Chestertown Court, Chestertown, N.Y. Nov. 23, 1999 (Transcript Pg. 19):

> "On behalf of my client, John Panos, my client wanted me to put on the record that his objects to this proceeding going forward pursuant to the United States Constitution 6th and 14th Amendments in the absence of a jury. We understand that there is a body of case law both state and federal that has held- (interrupted)."

The Court made no comment, and the defendant was convicted.

The instance when the Federal Question was raised on appeal; Appeal Brief to Warren County Court, Lake George, N.Y. Feb. 10, 2000, pg 7, 8 (ROA, P. 160,161):

> "the violation charges were replaced for the sole purpose of denying Mr. Panos his right to a jury trial. Mr. Goodspeed directly stated this in a letter dated Oct. 25, 1999 (ROA, P 87):
>
> "[T] his motion will have the effect of eliminating the need for a jury trial."
>
> In his letter of Nov. 4, 1999, Mr. Goodspeed again declares that there has been no change regarding the "Factual Assertions" against Mr. Panos (ROA, P 92) and argues against a jury trial (ROA, pp. 91-92).
>
> The right to a jury trial is guaranteed under the U.S. Constitution, Amendments 6 & 14. Mr. Panos should not

have been deprived of such a vital right in this manner. The prosecutor announced his desire to change the charges only two weeks in advance of trial. He knew that he was facing testimony of Mr. Burt Karson that may persuade the jury to acquit.

It is a well known but little discussed rule of practice that is known to both prosecutors and the defense bar. It is a fault inherent in the system which we members of the bar and bench try to ignore. But the truth is both plain and unpleasant (at least from the defense point of view). It is this: Lay Judges more often than not have a tendency to defer to the prosecution when in doubt as to the law. They accord greater credibility to police and less credibility to defendants. In short, a defendant has a much better chance in front of a jury. Knowing this, the prosecution improperly "reduced" the misdemeanors which would have mandated a jury trial for Mr. Panos."

The way in which this was passed on by Warren County Court; Decision and Order May 10, 2000 Appendix P. 10:

"While no statutory authority governs the reduction of misdemeanor complaints to violations, Criminal Procedure Law 180.50 dictates the proceedings upon the reduction of a felony complaint to a misdemeanor. This court finds said section authoritative by analogy to the instant matter. As can be seen upon review of this statute, there are several ways for a charge to be reduced. While it appears that, technically, the new charges should have been filed before the others were dismissed, the obvious intent, based upon all of the correspondence between the parties, leaves no doubt but that these charges were amended. Regarding appellant's

argument that he was deprived of his right to a jury trial by these amendments, the Court notes that the District attorney's office has broad discretion in reducing charges as well as the timing of a reduction (People v. Fuscher, 97 Misc. 2d 239). The prosecutor needs neither the Court's nor the defendant's consent to reduction of charges (People v. Galak 114 Misc. 2d 19)."

The Warren County Court affirmed the three convictions but agreed the sentencing had been excessive, vacated the consecutive sentencing on the last two counts and substituted in its place concurrent sentencing with the first count.

The Federal Question was again raised in the letter to the New York State Court of Appeals requesting leave to appeal, June 19, 2000, P. 2, 3 (ROA, P. 207, 208):

"Knowing that lay judges and local courts often have a bias in favor of the prosecution and the police, the District Attorney of Warren County deliberately stripped my client of his right to trial by jury of his peers for the propose of tilting the scales in favor of the prosecution by forcing a bench trial.

On appeal, the Warren County Court Acknowledged that no statutory authority governs the reduction of misdemeanor complaints to violations. The county court found that there was no violation of the statute of limitations (the new disorderly conduct charges were filed more than a year after the alleged events occurred over defendants objections and in violation of CPL 30.10 [2] [d]). The County Court attempted to analogize the district attorney and the Chestertown Court's actions to a reduction of a felony complaint to a misdemeanor pursuant to CPL 180.50. In asserting this analogy, the County Court concluded that the new disorderly conduct charges were not new and that there had been no

violation of the statute of limitations.

The County Court erred on this point. The analogy used by the court should not apply in that the purpose of the District Attorney's alleged reduction (in Actuality it was a replacement) of the misdemeanors to violations was to prevent my client from having his right to a jury trial. Most of the case law dealing with criminal procedure law 180.50 deals with statute of limitations and prosecutions being prevented as being outside that statute of limitations. They do not deal with a District Attorney's deliberate and articulated attempt to frustrate a defendants desire to have his case heard by a jury.

Since there is no statutory authority in this regard, and since the county court used a creative analogy to reach its conclusion, this issue provides the court of Appeals an opportunity to speak, perhaps for the first time, in regard to this particular question of Law."

The way in which this was passed on by the New York State Court of Appeals; certificate denying leave Aug 21, 2000 Appendix P. 14:

"-[U]pon the record and proceeding herein, there is no question of law presented which ought to be reviewed by the court of appeals and permission is hereby denied."

STATEMENT OF THE CASE

I

On October 7, 1998, in the state of New York, County of Warren, the petitioner, John Panos, was charged with two misdemeanors (appendix p. 17). Each misdemeanor charge has been deemed by society to be a level of seriousness warranting a maximum possible sentence of one year and a fine of $1000 and therefore entitle the defendant to a trial by jury. The defendant requested trial by jury.

On October 25, 1999 the prosecutor motioned to the trial court to reduce the misdemeanor charges to violations. He also states "- this motion will have the effect of eliminating the need for a jury trial". During the October 26 Sandoval hearing, (transcript pg. 34), the prosecutor also stated: "-these aren't new allegations, it is the same fact pattern-", "-same factual allegations since the date of arrest, just different gradation of trial".

The petitioner objected to this motion; however, the trial court judge allowed this reduction. The petitioner then was tried without jury and convicted (see appendix for new charges).

The convictions were appealed to the Warren County Court, Lake George, N.Y., and were upheld. In decision and order May 10, 2000 (appendix p. 10) Hon. John Austin, Judge States:

> "Regarding Appellant's argument that he was deprived of his right to a jury trial by these amendments, the court notes that as well as the timing of a reduction (people v. Fulcher, 97 Misc. 2d 239) the prosecutor needs neither the court's nor the Defendants consent to reduction of charges (people v. Galak, 114 Misc. 2d 719)".

ARGUMENT

II

In District of Colombia v. Colts (282 U. S. 63) the petitioner was charged with reckless driving, a charge that did not have a maximum possible sentence to warrant the right to trial by jury. The opinion of the U.S. Court of Appeals:

> "Whether a given offense is to be classed as a crime, so as to require a jury trial, or as a petty offense, triable summarily without a jury, depends primarily upon the nature of the offense. The offense here charged is not merely malum prohibitum, but in its very nature is Malum in SE. It was an indictable offense at common law."

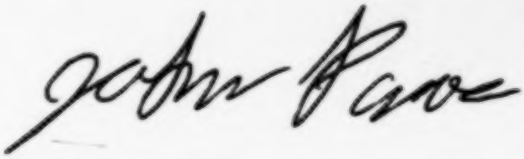
In Landry v. Hoepfener (818 F. 2d 1169) the petitioner was charged with D.W.I., a charge that did not have a maximum possible sentence to warrant the right to trial by jury. In the opinion of the U.S. Court of Appeals, they refer to the "bright line threshold test for the right to trial by jury." Ordinarily, the maximum possible sentence for a given offense may be used as an "*Indicator*" of its severity, however, also relevant are the actual facts of the offense. In Landry v. Hoepfener, the Court ruled that due to the facts of the offense, the petitioner did have the right to trial by jury even though the maximum sentence was less than six months in jail and considered "petty" by the "bright line threshold."

Pertaining to the charges in the instant matter, the prosecutor's intent to deprive the defendant's sixth amendment right by reducing the possible sentence while maintaining the same facts was improper. Considering the facts of the offense remained the same, than the seriousness remained the same and thusly warranted the right to trial by jury.

III

If this court chooses to accept this petition I will do everything to get this matter in and out of this court as soon as possible.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 15, 2000.



John Panos
P.O. Box 82
Chestertown, NY 12817

At a term of the County Court of the State of New York, Held in and for the County of Warren at Queensbury, New York, on May 10, 2000:

Present: Hon. John Austin, Judge

Defendant appeals from each and every part of a judgment of conviction and sentence rendered against him December 15, 1999, by Town Court of the Town of Chester, Warren County. A Notice of Appeal was served upon the Warren County District Attorney December 17, 1999.

On October 7, 1999 at approximately 7:05 a.m., appellant was driving his 1983 Jeep through the Town of Chester on State Route 9 when he was stopped by New York State Trooper Scott Carlson for an apparent vehicle and traffic violation. An argument ensued and escalated, resulting in the filing by Trooper Carlson of three accusatory instruments charging defendant with: (1) Disorderly Conduct, in violation of Penal Law 240.20; (2) Resisting Arrest in violation of Penal Law 205.30 and Obstructing Governmental Administration in the Second Degree in violation of Penal Law 195.05. the later two charges were each replaced respectively by two counts of Disorderly Conduct on November 10, 1999, two weeks prior to the date scheduled for a jury trial. Appellant objected to the modification.

After overruling appellant's objection, a three-day bench trial was held in the Town of Chester Court before the Hon. James McDermott on November 23, 1999, December 10, 1999, and December 15, 1999. The People called as witnesses Trooper Carlson and H. Peter Bentley, a retired station commander of the State Police barracks at Chestertown. The appellant called Leonard Fornabia and Burton Karson as witnesses and also testified on his own behalf. At the conclusion of the trial, appellant was found guilty of all three charges of Disorderly Conduct and sentenced to fifteen days on each

charge, which sentences were to run consecutively. Appellant argues that the District Attorney's filing of the latter two Disorderly Conduct charges violated the statute of limitations because they were not amendatory but were, in fact, new charges. Upon reviewing the lengthy pre-trial procedure herein, this Court finds that the two Disorderly Conduct charges filed on November 10, 1999, were not "new". It is clear from the correspondence exchanged by the District Attorney's office and counsel for appellant that the prosecutor was "moving to reduce" the previously filed misdemeanor charges. Accordingly, there is no statute of limitations violation because that office was ready for trial of the initial misdemeanor complaints, and, additionally, the amended charges would not have been time barred had they been initially filed on the date the misdemeanors were filed (*People v. cuddihy*, 170 Misc. 2d 592). Appellant counters that the District Attorney first dismissed the misdemeanor complaints before replacing them with the new violations.

While no statutory authority governs the reduction of misdemeanor complaints to violations, Criminal Procedure Law 180.50 dictates the proceedings upon the reduction of a felony complaint to a misdemeanor. This Court finds said section authoritative by analogy to the instant matter. As can be seen upon review of this statute, there are several ways for a charge to be reduced. While it appears that, technically, the new charges should have been filed before the others were dismissed, the obvious intent, based upon all of the correspondence between the parties, leaves no doubt but that these charges were amended. Regarding appellant's argument that he was deprived of his right to a jury trial by these amendments, the Court notes that the District Attorney's office has broad discretion in reducing charges as well as the timing of a reduction (*People v. Fulcher*, 97 Misc. 2d 239). The prosecutor needs neither the court's nor the defendant's consent to reduction of charges (*People v. Galak*, 114 Misc. 2d 719).

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In reviewing the trial transcripts, the Court finds that the District Attorney met the burden of proof, based upon the evidence submitted at trial. Appellant's argument that Trooper Carlson's testimony was insufficient to sustain a conviction, because it was the only evidence presented to support the third charge, is unpersuasive. It is well established that the testimony of a single eyewitness is legally sufficient to support a conviction (*People v. Williams*, 187 AD2d 547). Similarly, appellant's argument that Trooper Carlson's testimony, having been contradicted by an independent witness, should be discredited is unpersuasive. This Court is reluctant to decide issues of credibility where the trier of facts had the opportunity to assess the witnesses (*People v. Bell*, 176 AD2d 659; *People v. Wright*, 206 AD2d 750).

Appellant next argues that the conviction should be set aside based upon procedural grounds in that the prosecution failed to answer a motion on the return date set by appellant's attorney. The appellant cites *People v. Cole* (73 NY2d 957) in support of his position. In the instant matter, the People did file a response to appellant's motion, albeit not on the return date as set on the motion papers submitted by appellant's counsel. In *Cole, the* prosecution never filed response papers. The Court finds *Cole* distinguishable in that regard. The trial court's permission to allow the prosecutor to file opposition papers "late" comported with the judge's posture in allowing the appellant to file motions beyond the statutory time limitations, as well.

The Court does not find that the prosecutor's conduct at this bench trial deprived the appellant of a fair trial. The district attorney's cross-examination was aggressive.

Based upon the foregoing, the Court affirms each of the three convictions.

The appellant's last issue addresses the sentence imposed. Appellant's argues that a sentence of forty-five days of incarceration is excessive for what amounts to three petty offenses, all caused by appellant's failure to have a proper back window in his vehicle and his parking the vehicle at an angle when stopped by the trooper. The argument is compelling.

The court is mindful of the fact that two misdemeanors were initially filed as a result of the appellant's alleged conduct, but they were, in fact, reduced to violations. The Court has also considered appellant's limited criminal history in reducing the sentence.

For all of the foregoing reasons, the judgment and sentence by the Town Justice of the Town of Chester is hereby modified to provide that defendant is sentenced to fifteen days in the Warren County Jail as to each of the three counts, which sentences shall be served concurrently.

The within constitutes the decision and order of the Court.

Signed and entered at the Town of Queensbury, New York, the 10th day of May, 2000.

S/ John Austin JCC

Served upon: **Sterling Goodspeed, Esq.**
Kurt Mausert, Esq.
Chief Clerk, Chester Town Court
Joseph Hughes, Chief Clerk

STATE OF NEW YORK
COURT OF APPEALS

BEFORE: HON. RICHARD C. WESLEY
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

CERTIFICATE DENYING LEAVE

JOHN D. PANOS,

Appellant,

I, Richard C. Wesley, Associate Judge of the Court of Appeals of the State of New York, do hereby certify that, upon application timely made by the above-named appellant for a certificate pursuant to CPL 460.20 and upon the record and proceedings herein, * there is no question of law presented which ought to be reviewed by the Court of Appeals and permission is hereby denied.

Dated at Geneseo, New York

August 11, 2000

S/ Richard C. Wesley
Associate Judge

* Description of Order: Decision and order of the County Court, Warren County, dated May 10, 2000, modifying a judgment of the Town Court of Chester, rendered December 15, 1999.

THE PEOPLE OF THE STATE OF NEW YORK
–VS–
JOHN DAVID PANOS
84 WILLIAM HILL RD CHESTERTOWN

BE IT KNOWN THAT, by this information, Trooper Scott D Carlson as the Complainant herein, stationed at SP Chestertown accuses John Panos 84 William Hill Rd Chestertown the above mentioned Defendant, with having committed the violation of disorderly conduct, in violation of Section 240.20 Subdivision 5 of the PL Law of the State of New York.

That on or about the 7th day October, 1998, at about 7:05AM in the Town of Chester G5752, County of Warren, the Defendant did intentionally, knowingly, and unlawfully, commit the offense of Disorderly Conduct. A person is guilty of Disorderly Conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he obstructs vehicular or pedestrian traffic. Towit; on the aforementioned date and time after being stopped by complainant for a violation of the New York State Vehicle and Traffic Law, defendant did exit his vehicle, a 1983 Jeep bearing NY Registration 82476AP, in a hostile manner and rapidly walked toward complainant on ST-9 yelling "you mother fucker, what the fuck are you stopping me for". Defendant did then refuse to leave the road way and return to his vehicle to obtain his license and registration. All contrary to the provisions of said section made and provided.

The above allegations of fact are made by the complainant herein on direct knowledge and/or upon information and belief, with the sources of complainant's information and the grounds for being the facts contained in the attached supporting deposition of:

Wherefore, Complainant prays that a Warrant be issued for the arrest of the said Defendant.

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punished as a Class A Misdemeanor.

Affirmed under penalty of perjury
this 7th day of October, 1998

S/ Trooper Scott D. Carlson
Complainant

THE PEOPLE OF THE STATE OF NEW YORK
-VS-
JOHN DAVID PANOS
84 WILLIAM HILL RD CHESTERTOWN

BE IT KNOWN THAT, by this INFORMATION, Trooper Scott D Carlson as the Complainant herein, stationed at SP CHESTERTOWN the above mentioned Defendant, with having committed the MISDEMEANOR of RESISTING ARREST, in violation of Section 205.30 Subdivision 0 of the PL Law of the State of New York.

That on or about the 7th of October, 1998 at about 7:05 in the Town of Chester G5752, County of Warren, the Defendant did intentionally, knowingly and unlawfully, commit the crime of Resisting Arrest. A person is guilty of Resisting Arrest when he intentionally prevents or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person. TOWIT; on the aforementioned time and date the Defendant did Intentionally Resist being taken into custody, for a New York State Vehicle and Traffic offense and for Disorderly Conduct on ST-9 during said traffic stop, by physically resisting to be handcuffed. All contrary to the provisions of said section made and provided.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITIONS of: WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant.

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a class A Misdemeanor.

Affirmed under penalty of perjury
this 7th day of October, 1998

S/ Trooper Scott D Carlson

BEST AVAILABLE COPY

THE PEOPLE OF THE STATE OF NEW YORK
-VS-
JOHN DAVID PANOS
84 WILLIAM HILL RD CHESTERTOWN

BE IT KNOWN THAT, by this INFORMATION, Trooper Scott D Carlson as the Complainant herein, stationed at SP Chestertown accuses John Panos 84 WILLIAM HILL RD CHESTERTOWN the above mentioned Defendant with having committed the MISDEMEANOR of Obstructing Governmental Administration in the 2nd Degree, in violation of Section 195.05, Subdivision 0 of the PL Law of the State of New York.

That on or about the 7th day of October, 1998, at about 7:38AM in the Town of ChesterG5752, County of Warren, the Defendant did intentionally, knowingly, and unlawfully, commit the crime of Obstructing Governmental Administration in the second Degree when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned operated by the state, or a county, city, town, village, fire district or emergency medical service. TOWIT; on the aforementioned date and time while under lawful arrest for New York State Vehicle & Traffic charges, Disorderly Conduct, and Resisting Arrest, the Defendant did intentionally Obstruct Governmental Administration by using physical force to prevent himself from being secured by handcuffs to a wall mounted restraint ring. Defendant did strike Complainant with his right hand in the forehead causing Complainant to use physical force to restrain Defendant to the wall mounted

restraint ring. All contrary to the provisions of said section made and provided.

The above allegations of fact are made by the Complainant herein on direct knowledge and /or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITIONS of:

WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant.

In a written instrument, any person who knowingly makes a false statement which such person does not believe be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury
this 7th day of October, 1998

S/ Trooper Scott D Carlson

THE PEOPLE OF THE STATE OF NEW YORK
-VS-
JOHN DAVID PANOS
84 WILLIAM HILL RD., CHESTERTOWN, NY 12817

BE IT KNOWN THAT, by this INFORMATION, Trooper Scott D. Carlson as the Complainant herein, stationed at SP SARATOGA accuses John David Panos 84 WILLIAM HILL RD., CHESTERTOWN, NY 12817, the above mentioned Defendant, with having committed the VIOLATION of DISORDERLY CONDUCT, in violation of Section 240.20, Subdivision 1 of the PENAL Law of the State of New York.

That on or about the 7th day of October, 1998, at about 7:05AM in the Town of Chester, County of Warren, the defendant did intentionally, knowingly and unlawfully commit the VIOLATION of DISORDERLY CONDUCT. A person is guilty of disorderly conduct when with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he engages in fighting or in violent tumultuous or threatening behavior. To Wit: on the aforementioned time, date and place said defendant did engage in fighting and tumultuous behavior by intentionally resisting being taken into custody, by Complainant for a New York State Vehicle and Traffic offense and for Disorderly Conduct on ST-9 during said traffic stop, by physically resisting to be handcuffed. Said behavior did annoy and alarm Complainant. All Contrary to the provisions of said section made and provided.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION of:

WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant.

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45

Affirmed under penalty of perjury
this 10th day of November, 1999

Complainant- S/ Trooper Scott D Carlson

THE PEOPLE OF THE STATE OF NEW YORK
–VS–
JOHN DAVID PANOS
84 WILLIAM HILL RD., CHESTERTOWN, NY

BE IT KNOWN THAT, by this INFORMATION, Trooper Scott D. Carlson, as the Complainant herein, stationed at SP Saratoga accuses JOHN DAVID PANOS 84 WILLIAM HILL RD., CHESTERTOWN, NY, of DISORDERLY CONDUCT, in violation of Section 240.20, Subdivision 1 of the PENAL Law of the State of New York.

That on or about the 7th day of October, 1999 (sic), at about 7:38AM in the TOWN of CHESTER, County of WARREN, the defendant did intentionally, knowingly and unlawfully commit the VIOLATION of DISORDERLY CONDUCT. A person is guilty of disorderly conduct when with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he engages in fighting or in violent tumultuous or threatening behavior, TO WIT: on the aforementioned time, date and place said defendant did engage in fighting and tumultuous behavior by using physical force, striking Complainant with a closed fist to prevent himself from being secured by handcuffs to a wall mounted restraint ring at SP Chestertown. Said behavior did annoy and alarm Complainant. All contrary to the provisions of said section made and provided.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITIONS of:

WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant.

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury
this 10th day of November, 1999

Complainant- Trooper Scott D. Carlson

OFFENSES AGAINST PUBLIC ORDER

240.20 Disorderly conduct

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof:

1. He engages in fighting or in violent, tumultuous or threatening behavior; or

2. He makes unreasonable noise; or

3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or

4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or

5. He obstructs vehicular or pedestrian traffic; or

6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or

7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.

Disorderly conduct is a violation.
(L.1965, c.1030.)